

Notice of Allowability

Application No.

10/664,643

Examiner

Louis K. Huynh

Applicant(s)

SMITH ET AL.

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE filed 06/08/2005.
2. ☒ The allowed claim(s) is/are 6-21.
3. ☒ The drawings filed on 17 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/08/2005 has been entered.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Tom Dao (Reg. No. 44,541) on August 22, 2005.

4. The application has been amended as follows:

In the specification:

Page 1, paragraph [0001], line 1: the phrase --, now U.S. Pat. No. 6,846,305-- has been inserted after "March 29, 2002".

In Claim 6:

On line 11: "therein" has been changed to: --having an opening spaced from the permanent seal for--;

On line 17: "spaced apart from the permanent seal" has been changed to: --at the opening of the at least one gap--.

In Claim 10:

On line 4: "form" has been changed to: --from--.

In Claim 12:

On line 9: "therein" has been changed to: --having an opening spaced from the permanent seal for--;

On line 15: the phrase "spaced apart from the permanent seal" has been changed to: --at the opening of the at least one gap--.

In Claim 20:

On line 9: "therein" has been changed to: --having an opening spaced from the permanent seal for--;

On line 15: the phrase "spaced apart from the permanent seal" has been changed to: --at the opening of the at least one gap--.

Reasons for the Amendment:

5. The examiner proposed, and agreed to by applicants' attorney, to amend claims 6, 12 and 20 to recite that the at least one gap providing a channel between the front and rear sheets has an opening that is spaced from the permanent seal, and that the sacrificial port is attached to the front and rear sheets by a second seal at the opening of the at least one gap.

Reasons for Allowance

6. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to disclose and/or teach a method for forming a flexible container that comprises in combination the steps of: heating a transparent front sheet and a vapor impermeable rear sheet in a first localized area to fuse together the heated portions of the adjoining surfaces to form a permanent seal around a portion of a common peripheral edge of the front and rear sheets, wherein the permanent seal has at least one gap having an opening spaced from the permanent seal thereby providing a channel between the front and rear sheets; and a step of providing at least one sacrificial port interposed between the front and rear sheets and in communication with the channel for aseptically filling the container, wherein the at least one sacrificial port is attached to the front and rear sheets by a second seal at the opening of the at least one gap.

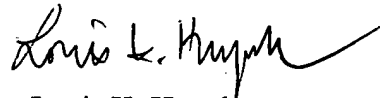
7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (571) 272-4462. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8000.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh
Primary Examiner
Art Unit 3721

August 22, 2005